



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, PORTLAND DISTRICT  
PO BOX 2946  
PORTLAND OR 97208-2946



CENWP-OC

January 14, 2014

Leah K. Feldon  
Department of Environmental Quality  
811 SW Sixth Avenue  
Portland, Oregon 97204-1390

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ/SW-NWR-13-134

Dear Ms. Feldon:

This letter acknowledges receipt of the subject December 30, 2013 Notice of Civil Penalty Assessment and Order. The U.S. Moorings received the notice on December 31, 2013.

The Corps of Engineers takes compliance with the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit 1200-Z issued by DEQ very seriously. We have taken, and will continue to take corrective action to ensure valid visual observations are taken in both dry and rainy conditions. We will continue to sample our permitted discharge points in compliance with the requirements of our permit while increasing onsite sampling at various points to better manage our treatment system.

With respect to the penalty assessed, 33 U.S.C. § 1323 (federal facilities section of the Clean Water Act) does not authorize the payment of fines and penalties. See *United States Dep't of Energy v. Ohio*, 503 U.S. 607 (1992). We are therefore prohibited by 31 U.S.C. § 1301(a) (the Purpose Statute) from paying such fines and penalties.

If you have questions regarding any of the corrective actions taken, please contact Art Leskovich, Environmental Compliance Coordinator, at (504) 808-5407 or [arthur.f.leskovich@usace.army.mil](mailto:arthur.f.leskovich@usace.army.mil). If you have any question regarding this letter, please contact me at (503) 808-4525 or [leanne.v.holm2@usace.army.mil](mailto:leanne.v.holm2@usace.army.mil).

Sincerely,

Leanne V. Holm  
Assistant District Counsel

Copy Furnished:

Chris Harper, CENWP-OD-NP  
Arthur Leskovich, CENWP-OD-NP  
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